

Amendment No. 1 to HB0191

Pinion
Signature of Sponsor

AMEND Senate Bill No. 293

House Bill No. 191*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-50-501(a), is amended by deleting the word “or” at the end of subdivision (5), by deleting the period at the end of subdivision (6) and by substituting instead the language and punctuation “; or”, and by adding a new subdivision thereto, as follows:

(7) Possession by a driver of five (5) or more grams of methamphetamine, as scheduled in § 39-17-408(d)(2) while operating a motor vehicle in this state. A motor vehicle is in operation if its engine is operating, whether or not the motor vehicle is moving.

SECTION 2. Tennessee Code Annotated, Section 55-50-311, is amended by adding a new subsection thereto, as follows:

(m) Any driver who, upon conviction of possession of five (5) or more grams of methamphetamine, as scheduled in § 39-17-408(d)(2), while operating a motor vehicle in this state shall be in violation of this chapter and shall have such driver’s intermediate license revoked and be issued a learner permit until such driver reaches eighteen (18) years of age. Upon reaching eighteen (18) years of age, such driver may apply for an unrestricted license if such driver meets all of the other requirements of this chapter. For the purposes of this section a motor vehicle is in operation if its engine is operating, whether or not the motor vehicle is moving.

SECTION 3. Tennessee Code Annotated, Section 55-10-307(b), is amended by deleting the word “and” at the end of subdivision (3), by deleting the period at the end of subdivision (4) and by substituting instead the language and punctuation “; and”, and by adding a new subdivision thereto, as follows:

(5) Possession of five (5) or more grams of methamphetamine, as scheduled in § 39-17-408(d)(2) while operating a motor vehicle in this state. A motor vehicle is in operation if its engine is operating, whether or not the motor vehicle is moving.

SECTION 4. Tennessee Code Annotated, Title 55, Chapter 50, Part 5, is amended by adding a new section thereto, as follows:

Section 55-50-515.

(a)

(1) A person who drives a motor vehicle within the entire width between the boundary lines of every way publicly maintained which is open to the use of the public for purposes of vehicular travel, or the premises of any shopping center, manufactured housing complex or apartment house complex or any other premises frequented by the public at large while in possession of five (5) or more grams of methamphetamine, as scheduled in § 39-17-408(d)(2), commits a Class B misdemeanor and is subject to a fine only of not more than five hundred dollars (\$500).

(2) A second or subsequent violation of subdivision (a)(1) is a Class A misdemeanor punishable by a fine only of not more than one thousand dollars (\$1,000).

(b) The department, upon receiving a record of the conviction of any person under this section upon a charge of driving a vehicle while in possession of five (5) or more grams of methamphetamine, as scheduled in § 39-17-408(d)(2), the department shall revoke such person's license for five (5) years.

(c)

(1) Notwithstanding any other rule of evidence or law to the contrary, in the prosecution of second or subsequent offenders under this section the official driver record maintained by the department of safety and produced upon a certified computer printout shall constitute prima facie evidence of the prior conviction.

(2) Following indictment by a grand jury, the defendant shall be given a copy of the department of safety printout at the time of arraignment. If the charge is by warrant, the defendant is entitled to a copy of the department of safety printout at the defendant's first appearance in court or at least fourteen (14) days prior to a trial on the merits.

(3) Upon motion properly made in writing alleging that one (1) or more prior convictions is in error and setting forth the error, the court may require that a certified copy of the judgment of conviction for such offense be provided for inspection by the court as to its validity prior to the department of safety printout being introduced into evidence.

(d)

(1) The vehicle used in the commission of a person's violation of this section is subject to seizure and forfeiture in accordance with the procedure established in title 40, chapter 33, part 2. The department of safety is designated as the applicable agency, as defined by § 40-33-202, for all forfeitures authorized by this subsection (f).

(2) In order for the provisions of subdivision (f)(1) to be applicable to a vehicle, the violation making the vehicle subject to seizure and forfeiture must occur in Tennessee.

(3) It is the specific intent that a forfeiture action under this section shall serve a remedial and not a punitive purpose. The purpose of the forfeiture of a vehicle after a person's conviction of driving a vehicle while in possession of five (5) or more grams of methamphetamine, as scheduled in § 39-17-408(d)(2), is to prevent unscrupulous or incompetent persons from driving on Tennessee's highways while transporting drugs. There is a reasonable connection between the remedial purpose of this section, ensuring safe roads and lessening the pernicious influence of methamphetamine upon Tennessee's families, and the forfeiture of a motor vehicle. While this section may serve as a deterrent to the conduct of driving a motor vehicle while transporting drugs, it is nonetheless intended as a remedial measure. Moreover, the statute serves to remove a

dangerous instrument from the hands of individuals who use a motor vehicle for the transportation of drugs.

(4) Only P.O.S.T.-certified or state-commissioned law enforcement officers will be authorized to seize such vehicles under this section.

SECTION 5. This act shall take effect July 1, 2005, the public welfare requiring it.